**THE HON'BLE SRI JUSTICE C.V.RAMULU**

W.P.Nos.2891 & 35417 of 1997

**COMMON ORDER:**

W.P.No.35417 of 1997

This writ petition is filed seeking a Mandamus declaring the action of the respondents in refusing to continue the petitioners as Cooks, Suppliers, Scavengers and Cleaners in the Hostels attached to G.M.R. Polytechnic, Madanapalle, Chittoor district on daily wage basis with effect from 1.1.1998 without following due process of law as arbitrary, illegal, malafide and discriminatory and consequently direct the respondents to continue the petitioners in service by regularizing their services in the existing vacant posts available in G.M.R. Polytechnic, Madanapalle, Chittoor district.

It appears, petitioners are working as Cooks, Suppliers, Scavengers, Cleaners etc., in the hostels attached to Government Model Residential Polytechnic (G.M.R. Polytechnic), Madanapalle, Chittoor district for the last several years. While that being so, the services of the petitioners were sought to be dispensed with, with effect from 1.1.1998. It is the case of the petitioners that the State Government took a policy decision to take over the management of G.M.R. Polytechnic and accordingly issued G.O.Ms.No.123 Social Welfare (K) Department dated 2.9.1997 transferring administrative control of the institution to the respondents with effect from 1.1.1998. After coming to know about the same, petitioners approached the respondents for continuing them in service. Since there was no response, petitioners issued a legal notice on 24.11.1997 and filed the present writ petition.

A detailed counter affidavit has been filed on behalf of

respondents asserting that the Government issued G.O.Ms.No.118 Social Welfare (Q) Department dated 17.11.1983 establishing A.P. Social Welfare Residential Schools in the State to provide quality education to the talented Scheduled Caste children coming mainly from the rural areas. Thereafter, by virtue of G.O.Ms.No.245 Social Welfare (Q) Department dated 3.10.1986, the State Level Society has been constituted under the name and style of A.P. Social Welfare Residential Educational Institutions Society to supervise, control and manage the Social Welfare Residential Educational Institutions in the State. The Principal Secretary to Government, Social Welfare Department is the Chairman of the society and as on today, there are 140 schools, six junior colleges, three I.T.I. and three Polytechnic colleges run by the society. The administrative control of the G.M.R. Polytechnic College was transferred from the Commissioner of Technical Education to the A.P. Social Welfare Residential Educational Institutions Society, Hyderabad vide G.O.Ms.No.123 Social Welfare (K) Department dated 2.9.1997. The transfer of administrative control is subject to the condition that the Commissioner of Technical Education should arrange to transfer the current year's budget and the teaching and non-teaching staff presently working in these institutions remain on deputation with the A.P. Social Welfare Residential Educational Institutions Society and the said society shall manage these institutions on residential pattern by providing all amenities to students as existing in other residential schools. The cooks required for these colleges may be provided by internal redeployment of the existing posts in the society institutions. The A.P. Social Welfare Residential Educational Institutions Society can claim post metric scholarships in lieu of mess charges from the Government.

It is the contention of the respondents that the services of the

petitioners were engaged by the Students Mess Committee for preparing food and other functions and the petitioners were being paid their remuneration by the said Mess Committee from out of the post metric scholarships being paid to the students and they are not the employees of G.M.R. Polytechnic, Madanapalle, Chittoor district.

There is no necessity of going into all the details.

Under similar circumstances, the Supreme Court of India in **G.B.PANT UNIVERSITY OF AGRICULTURE AND TECHNOLOGY, PANTNAGAR, NAINITAL V. STATE OF U.P. AND OTHERS**[1] held that;

> "The appellant University, was established under the U.P. Agricultural University Act (now U.P. Krishi Evam Prodyogik Vishwavidyalaya Adhiniyam, 1958). It is a residential university and had, at the relevant time, 14 hostels and a cafeteria to provide food services to the residents of the hostels and others. There were about 175 employees working in that cafeteria. These employees claimed regularization of their services as employees of the University. Accepting their claim, the Labour Court declared them to be the regular employees of the University from the date of the award and held them entitled to receive the same salary and other benefits as the other regular employees of the University. The High Court upheld the Labour Court's award. Before the Supreme Court the appellant submitted that it was the Food Committee and not the University which had a role in the matter of management and control of the cafeteria, that the employees of the cafeteria were not appointed by the University and that there was no budgetary allocation in the budget of the University to meet the expenses on account of the salaries of the cafeteria employees. Therefore, the appellant added that the employees of the cafeteria were not the employees of the University. The appellant raised a further plea that a pragmatic approach should be

made to the problem as accepting the claim of the cafeteria employees would place too heavy a financial burden on the University".

It was further held that;

> "The continuing of the cafeteria employees to remain half-fed and half-clad is not consistent with the socialism conceived by the founding fathers of the Constitution. The deprivation of the weaker section has continued for long but time has now come to cry a halt and it is for the law courts to rise up to the occasion and grant relief to a seeker of a just cause and just grievance. Economic justice is not mere legal jargon but in the new millennium, it is an obligation for all to confer this economic justice on a seeker. If society is to remain, social justice is the order and economic justice is the rule of the day. A narrow pedantic approach to statutory documents no longer survives. The principle of corporate jurisprudence is now being imbibed by industrial jurisprudence and there is a long catena of cases in regard thereto– the law thus is not in a state of fluidity since the situation is more or less settled. As regards interpretation, widest possible amplitude shall have to be offered in the matter of interpretation of statutory documents under industrial jurisprudence. The draconian concept is no longer available. Justice – social and economic, ought to be made available with utmost expedition so that the socialistic pattern of the society as dreamt of by the founding fathers can thrive and have its foundation so that the future generations do not live in the dark and cry for social and economic justice".

Further, it appears that the petitioners have completed more than 10 years of service even as on the date of filing of writ petition. Therefore, the contention of the respondents that unless and until the petitioners are paid from the consolidated fund, they are not entitled for

regularization, cannot be acceded to.

Under those circumstances, the respondents are directed to regularize the services of the petitioners in the appropriate posts to which they are entitled by putting them on regular scale. This exercise shall be completed within a period of three months from the date of receipt of this order.

W.P.No.2891 of 1997

In view of the findings recorded in W.P.No.35417 of 1997, this writ petition is also liable to be disposed of in terms of the above order.

Both the writ petitions are accordingly disposed of. No order as to costs.

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C.V.RAMULU,

J

Date: 22.3.2007
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**THE HON'BLE SRI JUSTICE C.V.RAMULU**

22.3.2007

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.Nos.2891 & 35417 of 1997

Date: 22nd March, 2007

W.P.No.2891 of 1997

Between:

M.Venkataramana & others.

.. Petitioners

And

The Government of A.P., Technical Education
Department, rep. by its Secretary,
Secretariat, Hyderabad & others.

.. Respondents

W.P.No.35417 of 1997

Between:

M.Venkataramana & others.

.. Petitioners

And

The A.P. Social Welfare Residential
Educational Institutions Society,
rep. by its Secretary.

.. Respondent

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[1] (2000) 7 SCC 109